

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of DRS, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LLOYD BODIFORD,

Respondent-Appellant,

and

CATHY SCOTT,

Respondent.

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UNPUBLISHED

September 13, 2002

No. 240561

Saginaw Circuit Court

Family Division

LC No. 00-026773-NA

Before: Whitbeck, C.J., and Sawyer and Kelly, JJ.

PER CURIAM.

Respondent Lloyd Bodiford appeals as of right from a family court order terminating his parental rights to the minor child, DRS, pursuant to MCL 712A.19b(3)(c)(i) and (h). The family court also terminated Cathy Scott's parental rights to DRS after she voluntarily relinquished her parental rights. She does not appeal. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

**I. Basic Facts And Procedural History**

Scott has five biological children. Bodiford is DRS's father. According to the termination petition the Family Independence Agency (FIA) filed in November 2000, all the children were hospitalized on October 27, 2000, "for injuries and safety issues." One child had suffered multiple bone fractures and another had suffered a bruised left eye. In the FIA's view, this evidently suggested that all the children were in danger. Scott could not provide any explanation for the children's injuries, and Bodiford failed to provide a care plan for DRS.

When proceedings resumed on February 1, 2001, Bodiford was not present and his attorney did not "know where he is or why he's not here." In exchange for converting the

termination petition to a petition for temporary wardship, the mother admitted or pleaded no contest to allegations in the petition. The FIA presented the children's medical records to establish their injuries. The family court then assumed jurisdiction over the children on the basis of the allegations solely against Scott, and the allegations against Bodiford was "severed for possible future consideration."

When the case resumed on March 20, 2001, Bodiford was again absent. His attorney said that he had not had contact with Bodiford "since early December," but Bodiford's mother was at the hearing and said that her son was "home sick with the flu and very ill at this point, and that's why he's not here." The allegation against Bodiford continued to be "severed" until he could appear, but the prosecutor, representing the FIA, indicated that he was no longer seeking to terminate Bodiford's parental rights.

Bodiford also failed to appear at the rescheduled hearing on the petition concerning him on March 29, 2001. After the foster care worker testified that Bodiford had not provided any plan to care for DRS, the family court found that the allegation in the petition was true.

The family court held a permanency planning hearing on November 20, 2001. Again, Bodiford was not present. The foster care worker indicated that she had not heard from him, but his mother reported that he had recently been convicted of assault with intent to do great bodily harm and had an early release date of 2008. Consequently, the family court authorized the FIA to file a supplemental petition seeking to terminate Bodiford's parental rights.

The FIA filed the supplemental petition on December 5, 2001. The FIA alleged that termination was proper because Bodiford had failed to visit or support DRS, or provide a plan for his care. Further, Bodiford was not able to care for DRS himself due to his incarceration.

The family court held a hearing on the petition on February 13, 2002. Bodiford participated by speaker phone. After hearing from the foster care worker and Bodiford, the family court found that the allegations in the petition were true and terminated Bodiford's parental rights pursuant to MCL 712A.19b(3)(c)(i) and (h).

## II. Standard Of Review

The sole issue Bodiford raises to challenge the family court's order terminating his parental rights relates to the family court's compliance with the court rule's time guidelines for a termination hearing. This presents a question of law subject to review de novo.<sup>1</sup>

## III. Hearing Deadline

According to MCR 5.974(F)(1)(b), the family court must hold a "hearing on a supplemental petition for termination of parental rights . . . within 42 days after the filing of the supplemental petition. The court may, for good cause shown, extend the time period for an additional 21 days." Bodiford points out in his appellate brief that the FIA filed the supplemental petition seeking to terminate his parental rights on December 5, 2001. Despite a

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<sup>1</sup> See *People v Fosnaugh*, 248 Mich App 444, 449; 639 NW2d 587 (2001).

delay in a scheduled conference call with Bodiford, the family court never explicitly indicated that its was extending the time for the hearing another twenty-one days. Consequently, under this court rule, the family court had to hold the termination hearing no later than January 16, 2002. Even if the family court had extended the period preceding the termination hearing for an additional twenty-one days, that period would have expired on February 6, 2002. The family court, however, actually held the hearing on February 13, 2002, past both deadlines described in the court rule.

Though the family court violated the court rules in holding the hearing past the deadline, the error does not require reversal. Case law plainly holds that this particular type of error is harmless.<sup>2</sup>

Affirmed.

/s/ William C. Whitbeck

/s/ David H. Sawyer

/s/ Kirsten Frank Kelly

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<sup>2</sup> See *In re Jackson*, 199 Mich App 22, 28-29; 501 NW2d 182 (1993).